

APTAC Body of Knowledge Competency Guide

D. Basics of Contracting with Government Entities

D.3 ITAR and Export Compliance

Description

Are you exporting technology or industrial goods internationally? Do you deal in products or services that could fall under control of the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR)? If yes is the answer to either of these questions, you need knowledge of the rules for exporting products and services to other countries.

The follow are some key steps and points to remember about a company's export compliance responsibilities:

Determine Which Export Regulations Apply To Your Products

If you exporting or are a manufacturer of the product that is exported, you definitely must register with the Department of Defense Technology Controls (DTTC). Fee varies. Even if not exporting yourself, you still need to register, and must have a compliance system, address deemed exports (hiring of foreign persons in your company etc.)

International Traffic and Arms Regulations (ITAR) fall under the State Department, or Export Administration Regulations (EAR) fall under the Dept. of Commerce. You must find out which apply to you.

Learn the regulations to find out what path you need to take

Determine if you need a License, remembering that

Processing times are long. Consider the lead time you need. Particularly if you are a small business, lead time-can be months long, not weeks-alert your boss and your customers.

Remember it is not only commodities that apply to the regulations. Exported services apply as well. If you export technology data, you are providing a Defense service.

On Licensing Applications, fill in ALL the blocks. Use "None" instead of "N/A"

Reference previous transaction information

Have an established Freight Forwarder. Pick a good one.

Remember that licensing officers vary in skills and initiative to expedite your cause.

APTAC Body of Knowledge Competency Guide

D. Basics of Contracting with Government Entities

D.3 ITAR and Export Compliance

Have a single gatekeeper for shipping under your license. Multiple players' names could lead violation of the detailed provision such as maximum value or the shipment, quantity restrictions etc...

If you are a Subcontractor, make sure you are on the Prime's authorization list (writing) before you export on behalf of a Prime.

Remember that hiring a foreign national is a "Deemed Export" and you may need an export license. Have a process in place that has your Human Resources function actively engaged.

Know the possible pitfalls. Penalties can be severe.

Do NOT ship without having registered and receiving a determination if you need an export license to the applicable product of service.

Have a solid recordkeeping system/audit trail of documentation-5 years maintained by your Program Office and Export Compliance function.

Be careful and have strong controls over your email distribution lists

Watch for US government program office or Prime Contractors directing export outside the scope of authorization. Some are not up on the rules. Exemption can be obtained by Prime on behalf of Subs.

Understand Matters of Enforcement of US Government Rules.

Voluntary Disclosures for mistakes made is good practice. Don't think of it in terms of it being Voluntary.

Fines and penalties for violations can be significantly reduced if you voluntarily disclose.

Confucius Says: "Don't Curse the Darkness, Light a Candle"

References

Directorate of Defense Trade Controls (DDTC)
<http://www.pmddtc.state.gov/registration/index.html>
http://www.pmddtc.state.gov/regulations_laws/itar_official.html

Export Administration Regulations (EAR) Database:
http://www.access.gpo.gov/bis/ear/ear_data.html

APTAC Body of Knowledge Competency Guide
D. Basics of Contracting with Government Entities
D.3 ITAR and Export Compliance

Office of Foreign Assets Control: <http://www.treas.gov/offices/enforcement/ofac/>

U.S. Customs and Border Protection: <http://www.customs.gov/xp/cgov/home.xml>

Automated Export System (AES): <http://www.cbp.gov/xp/cgov/export/aes/>

Senator Nunn-Wolferwitz report on ITAR and EAR controls
www.kslaw.com/library/pdf/nunnwolfowitz.pdf